

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MARK GOJCAJ,

Plaintiff,

v.

I.C. SYSTEM, INC.,

Defendant.

Case No. 11-12919

Honorable John Corbett O'Meara

ORDER GRANTING DEFENDANT'S OCTOBER 10, 2011 MOTION TO DISMISS

This matter came before the court on defendant I.C. System's October 10, 2011 motion to dismiss. No response was filed, and no oral argument was heard.

On May 27, 2010, plaintiff Mark Gojcay filed a small claims lawsuit in 41A District Court, Shelby Township, Macomb County, Michigan. Defendant removed the suit to this court based on federal subject matter jurisdiction, and it was assigned Case No. 10-12765. Defendant filed a motion to dismiss August 24, 2010; and the court ordered plaintiff Gojcay to file a response by September 10, 2010. Plaintiff failed to file a response, and the court granted Defendant's motion to dismiss September 30, 2010. Plaintiff did not file an appeal.

A year after filing the previous lawsuit, plaintiff Gojcay filed essentially the same suit in a different small claims court. Defendant again removed the action to federal court, and it was re-assigned to this court December 13, 2011. Plaintiff again alleges that Defendant put an item on his credit report in violation of the Fair Debt Collection Practices Act ("FDCPA").

"Under the doctrine of *res judicata*, a final judgment on the merits is an absolute bar to a subsequent action between the same parties or their privies based upon the same claims or causes

of action. The doctrine of *res judicata* also prohibits relitigation of all claims or issues which were actually litigated or which could have been litigated in a prior action." Reid v. City of Flint, 221 F.3d 1335 (6th Cir. 2000). In this case, the two lawsuits involve the same parties and the same issues that were or could have been litigated in the prior action. Therefore, the claims alleged in Plaintiff's current suit are barred.

Moreover, 15 U.S.C. § 1692k(d) mandates that an action under the FDCPA must be filed "within one year from the date on which the violation occurs." Plaintiff alleges that the violation(s) arose April 5, 2010; therefore, the claims are also time-barred.

ORDER

It is hereby **ORDERED** that Defendant's October 10, 2011 motion to dismiss is **GRANTED**.

s/John Corbett O'Meara
United States District Judge

Date: February 29, 2012

I hereby certify that a copy of the foregoing document was served upon the parties of record on this date, February 29, 2012, using the ECF system and/or ordinary mail.

s/William Barkholz
Case Manager